

This letter concerns the taxation of purchases of fuel oil under the Low Income Home Energy Assistance Program. See 86 Ill. Adm. Code 130.2007 and 130.2080. (This is a GIL.)

July 10, 2007

Dear Xxxxx:

This letter is in response to an inquiry from your office. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL.

You have asked whether payments made to fuel suppliers financed by grants under the Low Income Home Energy Assistance Program (LIHEAP) for purchases of fuel oil are subject to sales or excise taxes. We understand that the funding for these grants originates with the Federal Government that distributes funds to the State. The State then makes grants to not-for-profit corporations who make direct payments to fuel suppliers on behalf of qualified LIHEAP applicants.

DEPARTMENT'S RESPONSE:

Organizations that make application to the Department and are determined to be exclusively religious, educational, or charitable, receive an exemption identification "E- number." See 86 Ill. Adm. Code 130.2007. This number evidences that this State recognizes that the organization qualifies as exempt from incurring Use Tax when purchasing tangible personal property in furtherance of its organizational purpose. Sales to a governmental body are subject to tax unless the governmental body has an active exemption identification "E-number." See 86 Ill. Adm. Code 130.2080. If an organization or governmental body does not have an "E" number, then its purchases are subject to tax.

If the purchases of the fuel oil were made directly by a governmental body that has been issued an E-number or an exempt organization that has been issued an E-number, those purchases

are not subject to Retailers' Occupation Tax or Use Tax as long as the purchases of the fuel oil are in furtherance of the governmental body's or exempt organization's purpose.

We understand that the program also may involve purchases of natural gas and electricity. Natural gas and electricity are taxed under the Gas Revenue Tax Act, Gas Use Tax Law, and Electricity Excise Tax Law. The Gas Revenue Tax Act and the Electricity Excise Tax Law do not contain exemptions for sales to governmental bodies or exclusively religious, educational, or charitable organizations. Governmental bodies or other organizations making payments to utilities are generally subject to tax under those acts. However, the Gas Use Tax Law, which imposes Gas Use Tax on natural gas purchased out-of-State, does have an exemption for governmental bodies or exclusively religious, educational, or charitable organizations that have been issued E-numbers.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton
Senior Counsel, Sales & Excise Taxes

TDC:msk